

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

OLEAN BYRD, ) Case No.: 4:15-CV-03679-RBH  
                  )  
Plaintiff,      )  
                  )  
vs.               ) **CONSENT ORDER FOR REMAND**  
                  )  
WAL-MART STORES EAST, L.P., )  
                  )  
Defendants.     )  
                  )

---

This matter was removed to this court on the assertion of diversity jurisdiction under 28 U.S.C. §1332 on September 14, 2015. Jurisdiction under this section exists when the parties have complete diversity of citizenship and the amount in controversy exceeds \$75,000, exclusive of interests and costs. The amount in controversy requirement is tested at the time of removal. When an unspecified amount of damages is claimed, the amount is satisfied for the purposes of remand unless it appears to a legal certainty that plaintiff cannot recover damages in excess of \$75,000.00. Wright, Miller & Cooper, *Federal Practice and Procedure* §3725 (1985 Supp. 1998). Limitations on damages after removal do not affect jurisdiction; however, clarifications of the amount sought at the time of removal may result in remand. See *St. Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283, 292 (1938) (post-removal amendment does not affect jurisdiction); *Cole v. Great Atlantic & Pacific Tea Co.*, 728 F.Supp. 1305 (E.D. Ky. 1990) (ambiguous demands may be subject to post-removal clarification); Wright & Miller §3702 (Supp. 1998).

In her Motion to Remand filed October 6, 2015, Plaintiff offered that the alleged damages resulting from the claims alleged in her complaint will not exceed \$75,000.00. For this reason, the parties to this action have consented to the remand of this matter from the United States District Court, District of South Carolina, Florence Division to the Court of Common Pleas for the 14<sup>th</sup> Judicial Circuit, Darlington County, State of South Carolina.

No costs shall be imposed as removal was not improper given the facts then known to Defendant.

**IT IS SO ORDERED.**

October 13, 2015  
Florence, South Carolina

s/ R. Bryan Harwell  
R. Bryan Harwell  
United States District Judge

WE SO CONSENT:

---

s/Alexis M. Wimberly  
Robert B. Varnado, Fed ID No.: 6478  
Alexis M. Wimberly, Fed ID No.: 11943  
**BROWN & VARNADO, LLC**  
103 Church Street  
Mount Pleasant, South Carolina 29464  
P: 843-737-7300  
F: 843-654-5109  
[awimberly@brown-varnado.com](mailto:awimberly@brown-varnado.com)  
[rvarnado@brown-varnado.com](mailto:rvarnado@brown-varnado.com)

---

s/Mary D. LaFave  
Regina Hollins Lewis, Fed ID No.: 7553  
Mary D. LaFave, Fed ID No.: 10316  
**GAFFNEY LEWIS & EDWARDS, LLC**  
3700 Forest Drive, Suite 400  
Columbia, South Carolina 29204  
P: 803-790-8838  
F: 803-790-8841  
[rlewis@glelawfirm.com](mailto:rlewis@glelawfirm.com)  
[mlafave@glelawfirm.com](mailto:mlafave@glelawfirm.com)